

UNITED STATES OF AMERICA
Before the
U.S. COMMODITY FUTURES TRADING COMMISSION

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In the Matter of:)
)
)

Udo Rotmistrenko,)
)

CFTC Docket No. SD 07 - 05

Registrant.)
_____)

**NOTICE OF INTENT TO REVOKE REGISTRATION PURSUANT TO SECTIONS
8a(2) AND 8a(11) OF THE COMMODITY EXCHANGE ACT**

I.

The Commodity Futures Trading Commission ("Commission") has received information from its staff that demonstrates, and the Commission's Division of Enforcement ("Division") alleges and is prepared to prove that:

1. Udo Rotmistrenko has been registered as a commodity trading advisor ("CTA") in his own name and as an associated person ("AP") of his CTA since March 15, 2000. When he committed the acts alleged in this notice, Rotmistrenko owned and operated Rittmeister Capital Management, Inc. ("Rittmeister"). Rittmeister was a New York limited liability company with offices located at 67 Wall Street, New York, New York.

2. Rotmistrenko's address is 342 52nd St., Apt. 1, Brooklyn, New York 11220. However, in approximately 80 days he is due to report to a prison to be assigned by the Federal Bureau of Prisons.

3. In May 2004, the United States Attorney for the Southern District of New York filed a criminal complaint against Rotmistrenko. The complaint charged him with three counts

of wire fraud in violation of 18 U.S.C. § 1343. Violations of 18 U.S.C. § 1343 are punishable by up to five years in prison.

4. On August 6, 2004, the Commission filed a "Notice of Intent to Suspend or Modify Registration of Udo Rotmistrenko" (the "August 2004 Notice of Intent"). The August 2004 Notice of Intent alleged that Rotmistrenko's registration should be suspended pursuant to section 8a(11)(A) of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. § 12a(11)(A). Section 8a(11)(A) of the Act authorizes the Commission to suspend or modify the registration of any registrant who is charged with the commission of a crime that would reflect on the honesty or the fitness of the person to act as a fiduciary, and that is punishable by imprisonment for more than one year if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

5. On September 30, 2004, the United States Attorney for the Southern District of New York filed a twenty-four count indictment, which alleged that Rotmistrenko engaged in an illegal scheme to defraud customers. The indictment alleged that, from March 1999 through December 2003, Rotmistrenko solicited retail investors to trade in the foreign currency exchange ("forex") market.

6. The indictment stated that Rotmistrenko induced potential customers to open accounts and to entrust funds to him and Rittmeister by misrepresenting Rittmeister's history of generating profits for customers through trading in the forex market. Rotmistrenko also misrepresented how he and Rittmeister used investors' funds.

7. The indictment stated that Rotmistrenko falsely claimed that Rittmeister had generated profits as high as 43 per cent per year for its customers through forex trading, when in fact Rittmeister generated little or no profits through forex trading.

8. The indictment stated that Rotmistrenko sent account statements to his customers that falsely claimed that Rittmeister had generated profits for them trading in the forex market. When investors demanded that he return their funds, Rotmistrenko made several false claims, including that the transfer of investor funds back into the United States was delayed due to restrictions placed by the United States government upon such international transfers in the wake of the terrorist attacks on September 11, 2001.

9. The indictment stated that Rotmistrenko misappropriated more than \$1 million that investors had entrusted to him for forex trading by using investors' money to pay his personal expenses, including college tuition for his wife and wedding expenses.

10. The indictment charged Rotmistrenko with twenty-four counts of wire and mail fraud, in violation of 18 U.S.C. §§ 1341-43, between February 1, 1999 and September 22, 2003.

11. On March 18, 2005, an Administrative Law Judge ("ALJ") issued an "Order Suspending Registration." In his order, the ALJ held that Rotmistrenko was in default and that the Division had demonstrated that the criminal charges satisfied the requirements for a suspension contained in section 8a(11)(A) of the Act, 7 U.S.C. § 12a(11). The ALJ accordingly suspended Rotmistrenko's registrations as a CTA and AP.

12. Pursuant to Commission Regulation 3.56(e)(2), 17 C.F.R. § 3.56(e)(2), the ALJ's order became a final decision of the Commission fifteen days after service was made in accordance with Regulation 3.50(a), 17 C.F.R. § 3.50(a).

13. Pursuant to Section 8a(11)(C) of the Act, the Commission's suspension of Rotmistrenko remains in effect until his indictment "is disposed of" or until the Commission terminates the suspension.

14. On May 31, 2005, in the criminal case in the United States District Court for the Southern District of New York, Rotmistrenko pled guilty to all of the twenty-four counts in the indictment charging violations of 18 U.S.C. §§ 1341-43.

15. On June 18, 2007, the United States District Court for the Southern District of New York sentenced Rotmistrenko to 51 months' imprisonment and ordered him to pay \$1,800,410 in restitution.

16. The facts set forth above constitute a basis for statutory disqualification from registration pursuant to Sections 8a(2)(D)(iii) and (iv) and 8a(11) of the Act, 7 U.S.C. §§ 12a(2)(D)(iii) and (iv) and 12a(11), pursuant to which the current registrations of Rotmistrenko may be suspended, restricted or revoked.

II.

Pursuant to its responsibilities under the Act and by reason of the foregoing allegations by the Division, the Commission deems it necessary and appropriate that public proceedings be conducted in accordance with the provisions of Sections 8a(2) and (11) of the Act, 7 U.S.C. § 12a(11), and Commission Regulations 3.56 and 3.60, 17 C.F.R. §§ 3.56 and 3.60, to determine whether Rotmistrenko is subject to revocation of his registration status as alleged.

III.

WHEREFORE, IT IS HEREBY ORDERED that this Notice of Intent to Revoke Registration be filed and that a proceeding be conducted in accordance with the provisions of Commission Regulations 3.56 and 3.60, 17 C.F.R. §§ 3.56 and 3.60, to determine whether


Rotmistrenko is subject to revocation of his registrations, and if so, whether the current registrations of Rotmistrenko should be revoked.

Pursuant to Regulation 3.60(b), 17 C.F.R. § 3.60(b), Rotmistrenko may submit a written response to the Proceedings Clerk within thirty (30) days after service of this Notice of Intent to Revoke Registration, and shall serve a copy of such written submission, and any documents filed in this proceeding, upon Glenn I. Chernigoff, Trial Attorney, Division of Enforcement, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581.

IT IS FURTHER ORDERED that this Notice shall be served upon Rotmistrenko personally or by registered or certified mail forthwith.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of the investigative or prosecutorial functions in this or any factually related proceeding will be permitted to participate or advise in the decision upon this matter except as witness or counsel in proceedings held pursuant to notice.

By the Commission.


Eileen A. Donovan
Acting Secretary of the Commission
U.S. Commodity Futures Trading Commission

Dated: July 30, 2007